

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
941 North Capitol Street, NE Suite 9100
Washington, DC 20002
TEL: (202) 442-8167

IN RE:

THE PALISADES, LLC

Respondent

Case No.: RH-SC-06-100000

ORDER

On July 5, 2006, I issued an order concerning Respondent's motion to dismiss this case. That order rejected two of the grounds advanced by Respondent: 1) that this case is moot in light of Respondent's filing of a lawsuit in Superior Court; and 2) that this case was filed prematurely because a tenant election had not yet taken place. As to Respondent's third argument – that the Rent Administrator lacked jurisdiction to hold a hearing and, therefore, to refer the case to the Office of Administrative Hearings ("OAH") pursuant to D.C. Official Code § 2-1831.03(c) – I ordered the parties to file additional evidence or arguments concerning the Rent Administrator's authority to hear this matter in the first instance.

In response to that Order, the Office of the Attorney General, representing the District of Columbia, has filed a copy of an order by the Acting Director of the Department of Consumer and Regulatory Affairs authorizing the Administrator of the Housing Regulation Administration ("HRA") to perform the functions delegated to DCRA under the Rental Housing Conversion and Sale Act of 1980, D.C. Official Code § 42-3401.01 *et seq.* (the "Sale and Conversion Act").

Because conducting hearings in an administrative enforcement matter is one of those functions, D.C. Official Code § 42-3405.06(a), the HRA Administrator received the authority to conduct those hearings. No evidence has been submitted that shows any further delegation of that authority by the HRA Administrator to the Rent Administrator, however. As relevant to the jurisdiction of OAH in this case, however, it is now clear that the question whether there was a further delegation to the Rent Administrator need not be answered. Regardless of the answer to that question, the authority to hear this case resides in OAH.

When this case was filed, OAH had jurisdiction to hear all “adjudicated cases” under the jurisdiction of DCRA, except cases under the jurisdiction of the Rent Administrator. D.C. Official Code § 2-1831.03(b)(2). *See* D.C. Official Code § 2-1831.01(1) (defining “adjudicated case” as “a contested case or other administrative adjudicative proceeding before the Mayor or any agency that results in a final disposition by order and in which the legal rights, duties, or privileges of specific parties are required by any law or constitutional provision to be determined after an adjudicative hearing of any type.”). Thus, if the Administrator of HRA retained (and never delegated) the authority to conduct hearings under the Sale and Conversion Act, that authority now has vested in OAH by operation of law. *See also* D.C. Official Code § 2-1831.03(f) (agencies covered by the OAH Establishment Act may not adjudicate cases under OAH’s jurisdiction).¹

On the other hand, if the HRA Administrator did delegate hearing authority to the Rent Administrator, then the Rent Administrator’s authority did not vest in OAH before October 1, 2006, due to the “Rent Administrator” exclusion in D.C. Official Code § 2-1831.03(b)(2)). As

¹ To be sure, the authority vested in OAH is limited. OAH may only conduct hearings and issue orders in cases in which it has jurisdiction. None of the other authority granted to the Mayor and delegated to the Administrator of HRA was affected by the OAH Establishment Act.

noted in the May 12, 2006 Order issued in this matter, however, the Rent Administrator and the Chief Administrative Law Judge entered into an agreement pursuant to D.C. Official Code § 2-1831.03(c) that granted OAH the authority to hear this specific case. Thus, to the extent that the Rent Administrator had the authority to hold the hearing in this case, that authority now resides in OAH as well.²

Therefore, for the reasons set forth above and in the July 5 Order, Respondent's motion to dismiss shall be denied. A status conference shall be held to set a hearing date and other procedural deadlines in this matter.

² As of October 1, 2006, the "Rent Administrator" exclusion from OAH's jurisdiction has been eliminated. D.C. Official Code § 2-1831.03(b-1). Because I conclude that OAH had jurisdiction of this matter even under the pre-October 1 law, I need not consider whether § 2-1831.03(b-1) is an additional source of jurisdiction in this case.

Accordingly it is, this _____ day of _____, 2006:

ORDERED, that Respondent's motion to dismiss this case is **DENIED**; and it is further

ORDERED, that the parties' representatives shall appear for a status conference on November 13, 2006, at 2:00 PM. The Conference will take place at the Office of Administrative Hearings, 941 North Capitol Street, N.E., Suite 9100 (9th Floor), Washington, DC. **The parties should note that this is a different location than the location of previous hearings in this matter.** The purpose of the status conference shall be to set a hearing date and other procedural deadlines in this matter.

July 5, 2006

_____/s/_____
John P. Dean
Administrative Law Judge